



U.S. Department of  
Transportation  
Office of the Secretary  
of Transportation

General Counsel

400 Seventh St., S.W.  
Washington, D.C. 20590

August 26, 2004

Bryant L. VanBrakle, Secretary  
Federal Maritime Commission  
800 N. Capitol Street, N.W.  
Washington, D.C. 20573-0001

Re: FMC Petitions Nos. P3-03, P5-03,  
P7-03, P8-03, P9-03, P1-04, P2-04,  
and P4-04

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Dear Secretary VanBrakle:

Pursuant to 46 C.F.R. § 502.74, enclosed herewith are the original, one copy for each of the above-referenced dockets, and fifteen (15) additional copies of the Reply of the United States Department of Transportation to the Request by the World Shipping Council for Additional Comments, for filing with respect to the above-referenced proceedings. This Reply has been served on all interested parties of record.

Please contact me if there are any questions or matters in which I can be of assistance.

Sincerely,

Paul Samuel Smith  
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BEFORE THE  
FEDERAL MARITIME COMMISSION

Petitions of United Parcel Service, Inc.,  
National Customs Brokers and Forwarders  
Association of America, Inc., Ocean World  
Lines, Inc., BAX Global, Inc., and C.H.  
Robinson Worldwide, Inc. for Exemptions  
Pursuant to Section 16 of the Shipping Act  
of 1984

FMC Petition Nos. P3-03,  
P5-03, P7-03, P8-03, P9-03,  
P1-04, P2-04 and P4-04

**REPLY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION  
TO THE REQUEST BY THE WORLD SHIPPING COUNCIL FOR  
ADDITIONAL COMMENTS**

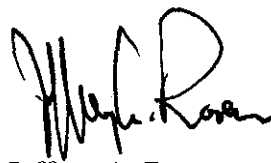
On August 17, 2004 the World Shipping Council ("WSC") filed a reply to an August 2, 2004 document filed in each of the above-referenced proceedings and titled "Motion for Leave to File Joint Supplemental Comments Requesting Expedited Adoption of a Conditional Exemption from Tariff Publication" ("Joint Comments"). As noted in the WSC reply, the Joint Comments again request the Commission to exercise its exemption authority under section 16 of the Shipping Act of 1984, 46 U.S.C. § 1715, and exempt non-vessel-operating common carriers (NVOCCs) from the requirements of section 8 of Act, 46 U.S.C. § 1707, pursuant to the terms of an agreed draft exemption attached to the Joint Comments.<sup>1</sup> The WSC states at page 3 of its reply that "[i]n order to allow for appropriate consideration of the fundamental regulatory issues presented in

<sup>1</sup>/ The joint comments were filed on behalf of The National Industrial Transportation League, United Parcel Service, Inc., BAX Global, Inc., FedEx Trade Networks Transport & Brokerage, Inc., the Transportation Intermediaries Association, C.H. Robinson Worldwide, Inc., and BDP International, Inc.

the [Joint Comments] and preparation of its response, WSC respectfully requests that the Commission set a date of September 30, 2004, for substantive responses to the [Joint Comments].”<sup>2</sup>

In light of the fact that the other parties to these proceedings have not as yet had the opportunity to comment on the proposal set forth in the Joint Comments, the United States Department of Transportation (“DOT” or “Department”) supports the request by WSC for an additional round of comments by all parties, including DOT. In comments previously filed on January 16, 2004, the Department urged the Commission to expeditiously exercise its exemption authority to remove presently-applicable tariff publication and adherence requirements in a manner that would allow NVOCCs to enter into private and confidential contracts with their shippers, the same sorts of contracts that vessel operators are specifically allowed to utilize under Section 8(c) of the 1984 Act, 46 U.S.C. § 1707(c). DOT urges the Commission to act on the pending matters expeditiously once this last round of comments is received.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey A. Rosen".

Jeffrey A. Rosen  
General Counsel

August 26, 2004

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<sup>2</sup> / While the WSC Reply is not itself characterized as a motion, since it seeks an additional round of comments to be filed by September 30, the Department believes it should be treated as such under the Commission’s Rules of Practice and Procedures. Accordingly, this reply by DOT is filed pursuant to the provisions of 46 C.F.R. 502.74 governing replies to motions.

CERTIFICATE OF SERVICE

I certify that on August 26, 2004, copies of the foregoing document were served  
by first-class mail on the following parties:

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